

# **EXHIBIT 13**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
SANDRA GLOWACKI, on behalf of her  
minor children, D.K.G and D.C.G.,

Plaintiffs,

CASE NO. 11-cv-154891

vs

HOWELL PUBLIC SCHOOL DISTRICT,  
JOHNSON "JAY" MCDOWELL, individually  
and in his official capacity as a teacher  
in the Howell Public School District,

Defendants.

The Deposition of DANIEL GUERNSEY, taken before me,  
Jennifer Wall, CSR-4183, a Notary Public within and for the  
County of Oakland, Acting in Washtenaw, State of Michigan, at  
24 Frank Lloyd Wright Drive, Ann Arbor, Michigan on Friday,  
October 12, 2012.

## APPEARANCES:

ERIN ELIZABETH MERSINO, ESQ.

The Thomas More Law Center  
24 Frank Lloyd Wright Drive  
Ann Arbor, Michigan 48106  
(734) 827-2001

Appearing on behalf of Plaintiff.

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Ann Arbor, Michigan

Friday, October 12, 2012

10:10 a.m.

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DANIEL GUERNSEY

was thereupon called as a witness herein, and after having been  
first duly sworn to tell the truth, the whole truth and nothing  
but the truth, was examined and testified as follows:

MR. HENLEY: The record should reflect that  
this is the discovery only deposition of Dr. Daniel Guernsey  
to be taken for that purpose under the Federal Rules of  
Civil Procedure and noticed by co-defendant, Jay McDowell.

Dr. Guernsey, my name is Roy Henley,  
and I represent the Howell Public Schools in this case.  
I will be starting the questioning with you.

## EXAMINATION

BY MR. HENLEY:

Q. Have you ever had your deposition taken before?

A. Yes.

Q. Okay. So you know to hopefully answer verbally as opposed  
to a nod or a shake of the head or an uh-huh or an unh-unh.  
Everyone forgets, I will remind you.

A. Yes.

Q. Additionally, if I ask a question that you don't understand  
or if that is just plain unintelligible, please let me know

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## APPEARANCES, CONTINUING:

SUZANNE P. BARTOS, ESQ.

Plunkett Cooney

535 Griswold, Suite 2400

Detroit, Michigan 48226

(313) 983-4741

Appearing on behalf of Defendant McDowell.

ROY H. HENLEY, ESQ.

Thrun Law Firm, PC

2900 West Road, Suite 400

East Lansing, Michigan 48826

(517) 484-8000

Appearing on behalf of Howell Public Schools.

ALSO PRESENT: Sandra Glowacki

Drake Glowacki

Cassandra Harmon-Higgins

## WITNESS INDEX

Witness	Examined by	Page
DANIEL GUERNSEY	Mr. Henley	3
Ms. Bartos		54

## EXHIBIT INDEX

Exhibit No.	Description	Page
Ex. No. 38	Report	4
*Ex. No. 39	Document	52
*(retained by counsel)		

\* \* \* \* \*

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and I will rephrase it so you do understand.

Also if you'd like to take a break at any  
time, I'm all in favor of breaks, please just let me  
know and I'd only ask that we clear up questions that  
are pending before we take a break, okay.

To start with, could you state your name for  
the record, please, and spell your last name.

A. Daniel Patrick Guernsey, G-u-e-r-n-s-e-y.

MR. HENLEY: Just to make things go faster  
I should probably should have done this, but let's mark this  
as Exhibit No. 38.

(Deposition Exhibit No. 38, report, was marked  
for identification.)

MR. HENLEY: Back on the record.

BY MR. HENLEY:

Q. Dr. Guernsey, let me hand you what's been marked as  
Exhibit 38, and that is your report, correct?

A. Yes.

Q. And let's move back to Exhibit A of your report. That is  
your curriculum vitae?

A. Yes, sir.

Q. Is there anything in your curriculum vitae which is  
inaccurate or not up-to-date?

A. Not that I'm aware of.

Q. I'd like to start and talk a little bit about your

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1 October 25th written reprimand. I think there were two.  
 2 Q. Yes. The shorter one I think is the -- assuming -- well,  
 3 strike that.  
 4 Let me do things in better form.  
 5 Assuming that the shorter reprimand was the  
 6 reprimand that remained effective, would you have any  
 7 criticism in that regard?  
 8 A. Yes.  
 9 Q. What would that be?  
 10 A. It's inadequate, especially when compared with the reprimand  
 11 of October 25th by Moran and Moore, that, in my estimation,  
 12 is a more appropriate articulation of the severity of what  
 13 happened in that classroom towards the denial of Daniel's  
 14 rights.  
 15 Q. Were you aware that any disciplinary references were removed  
 16 from Daniel's record?  
 17 A. Yes.  
 18 Q. In what way do you consider the latter reprimand, the short  
 19 one, to be inadequate?  
 20 A. Mr. McDowell was guilty of unprofessional, unethical conduct  
 21 which deprived the student of his rights. His behavior in  
 22 the classroom, as I articulated in my report, was grossly  
 23 inadequate, and unfair and created a hostile environment,  
 24 not just for Daniel, but for the other student as they  
 25 articulated in their response to the incidents.

1 A. Yes.  
 2 Q. Do some of those policies relate to classroom management?  
 3 A. Classroom management is usually handled by the principal.  
 4 The board approves policies, so insofar as the board creates  
 5 or approves a policy related to classroom management, such  
 6 as there will be no corporal punishment, in that sense, yes,  
 7 the board would be involved.  
 8 Q. At the Donahue academy, focusing the question a bit more,  
 9 has the board passed any policies which are applicable to  
 10 the classroom?  
 11 A. The board approves the handbook which lists standards and  
 12 expectations for student behavior including in the  
 13 classroom, yes. The board is aware of that and approves it.  
 14 Q. And as head master at Donahue academy, do you expect your  
 15 teachers to be familiar with the handbook and those  
 16 standards?  
 17 A. Absolutely.  
 18 Q. You had mentioned that you had reviewed a number of school  
 19 district policies and guidelines, correct?  
 20 A. The ones that I mentioned in the exhibits, yes.  
 21 Q. Did you have any criticism of any of those policies and  
 22 guidelines?  
 23 A. No.  
 24 Q. Did you review any materials generated by Dr. Marcia McEvoy?  
 25 A. I briefly looked at some of her presentations, yes.

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1 Q. As head master at Donahue Academy, you have had experience  
 2 with disciplining teachers, correct?  
 3 A. Indeed.  
 4 Q. And would it be fair to say that the purpose of teacher  
 5 discipline is to correct a problem, or one of the primary  
 6 purposes?  
 7 A. Yes.  
 8 Q. Did you review any personnel documents related to  
 9 Mr. McDowell?  
 10 A. No.  
 11 Q. Do you know whether or not Mr. McDowell had any disciplinary  
 12 history before this incident?  
 13 A. No.  
 14 Q. Do you know whether he had any disciplinary history after  
 15 this incident?  
 16 A. Other than what was in the exhibits, no.  
 17 Q. Did you have an opportunity to review the teachers'  
 18 collective bargaining agreement?  
 19 A. No.  
 20 Q. Are you familiar at all with the Michigan Teachers Tenure  
 21 Act?  
 22 A. Not substantially, no. Not enough to form an opinion.  
 23 Q. In Catholic schools, in your experience, in private and  
 24 parochial education, do the boards of such schools typically  
 25 issue policies?

1 Q. Did you have any criticisms of presentations?  
 2 A. Not from what I saw.  
 3 Q. As part of your work on this case, did you review Michigan's  
 4 anti-bullying legislation?  
 5 A. No.  
 6 Q. Are you familiar with it at all?  
 7 A. No.  
 8 Q. Does Florida have anti-bullying legislation that you know  
 9 of?  
 10 A. I would imagine, but I do not specifically remember reading  
 11 it.  
 12 Q. Based on that, I assume that you have not run into issues as  
 13 head master with applications to any anti-bullying  
 14 legislation?  
 15 A. Not legislation, but bullying, absolutely.  
 16 Q. Bullying is bad?  
 17 A. Bullying is terrible.  
 18 Q. Are there any specific policies at Donahue Academy?  
 19 A. Yes. We prohibit bullying. We prohibit anything that works  
 20 contrary to the dignity of a human person.  
 21 Q. Have you done any studying at all or research regarding  
 22 anti-bullying mandates versus rights of free expression in  
 23 public classrooms?  
 24 A. No. I have done, you know, basic researching on bullying,  
 25 and what is bullying, how does it work, how can you prevent